

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
SCARBOROUGH-ST. JAMES	:	BK 15-10625 (LSS)
CORPORATION,	:	
	:	
Debtor.	:	
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SCARBOROUGH-ST. JAMES	:	
CORPORATION,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 15-809-RGA
	:	
67500 SOUTH MAIN STREET,	:	
RICHMOND LLC,	:	
	:	
Appellee.	:	

**RECOMMENDATION**

At Wilmington this **22nd** day of **October, 2015**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. The parties have been involved in litigation over the Lease which is the subject of this appeal from the Bankruptcy Court decision of August 27,

2015. It is the only significant asset of the Appellant. In addition to this litigation, there is an appeal by Appellant of an arbitration award pending in the New York Court of Appeals and an eviction action pending in the United States District Court for the Eastern District of Michigan. The parties have been in litigation for six years. Any resolution of this present appeal would require resolution of all issues between the parties related to the Lease, including the two litigations mentioned herein. Neither parties feels mediation would be helpful or result an a resolution.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. The parties are advised of their right to file objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1. Since the parties request that the matter be removed form mandatory mediation, no objection to this Recommendation is expected.

IT IS FURTHER RECOMMENDED, based on the parties' proposal that the follwing briefing schedule be entered:

Appellant's opening brief	December 15, 2016
Appellee's answering brief	March 1, 2016
Appellant's reply brief	March 31, 2016

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE